

Message Text

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E.O. 11652: N/A
TAGS: SNAR
SUBJECT: NARCOTICS LAW

REF: STATE 170187

1. ANSWERS WHICH FOLLOW ARE KEYED TO NUMBERED QUESTION IN REFTEL:

1A. NO; EXCEPT THAT POSSESSION OF COCA LEAVES IS NOT ILLEGAL.
SEE 3A BELOW.

1B. NO; THE LAW SPECIFIES NO QUANTITIES. THE NARCOTICS POLICE
DO HAVE IN PRACTIC (THOUGH NOT IN LAW) THE DISCRETION TO
EXPEL A PERSON RATHER THAN PROSECUTING HIM FOR WHAT THEY
CONSIDER A MINOR OFFENSE (SEE 5F BELOW); ONE ELEMENT IN
THEIR DECISION COULD BE TYPE AND QUANTITY OF THE DRUG, BUT
THERE IS NO KNOWN STANDARD BY WHICH THEY OPERATE, AND EACH
CASE IS DECIDED INDIVIDUALLY. MOST AMERICANS, WHO HAVE
BEEN EXPELLED RECENTLY INSTEAD OF BEING PROSECUTED, PSSESSED
SMALL AMOUNTS OF MARIJUANA.

1C. THE PENALTY FOR POSSESSION (TWO TO EIGHT YEARS AND A FINE OF
10,000 TO 20,000 BOLIVIAN PESOS EQUAL \$500.00 TO \$1,000.00) IS
LESS SEVERE THAN FOR OTHER NARCOTICS OFFENSES, WHICH
MAY RANGE FROM 5 59 25 YEARS AND FINES OF UP TO
200,000 PESOS (\$10,000.00)

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2A. THE ARTICLES OF THE LAW RELATING TO TRAFFICKING DO
NOT DIFFERENTIATE BY TYPE OR QUANTITY OF SUBSTANCE.

2B. TRAFFICKING IS PUNISHABLE BY 20 TO 25 YEARS IN PRISON
AND A FINE OF 200,000 PESOS (\$10,000.00). ULTIMATELY
IT IS UP TO THE JUDGE (SUBJECT TO REVIEW BY THE
DISTRICT SUPERIOR COURT) TO DECIDE THE NATURE OF

THE OFFENSE, BUT THE PRESCRIBED PENALTY IS MANDATORY WITHIN THE GIVEN LIMITS. THERE IS NO BAIL (LIBERTAD PROVISIONAL) FOR NARCOTICS OFFENSES.

2C. THE ELEMENTS OF THE CRIME OF TRAFFICKING ARE NOT WELL DEFINED IN THE LAW. NO TYPES OR QUANTITIES OF DRUGS ARE SPECIFIED. TRAFFICKING IS DEFINED IN THE LAW AS QUE ANY PRIOR OR SUBSEQUENT ACTION INVOLVING TRADING, POSSESSION, OR DELIVERY OF NARCOTICS OR CONTROLLED SUBSTANCES IN VIOLATION OF THIS LAW, WHETHER COMMITTED BY INDIVIDUALS OR ORGANIZATIONS AND REGARDLESS OF THE REASONS FOR SUCH ACTION UNQTE. THERE ARE SEPARATE PENALTIES FOR THE RELATED OFFENSES OF SMUGGLING (20 TO 25 YEARS AND 200,000 PESOS), DISTRIBUTION (20 TO 25 YEARS AND 200,000 PESOS), DELIVERY OR FURNISHING (5 TO 15 YEARS AND 20,000 TO 50,000 PESOS), AND MARKETING (I.E. BUYING OR SELLING: 20 TO 25 YEARS AND 200,000 PESOS), NONE OF WHICH ARE ANY BETTER DEFINED. A LOT IS LEFT TO THE DISCRETION OF THE JUDGE.

2D. THE PENALTY FOR IMPORTATION OF DRUGS TO BOLIVIA IS COMPREHENDED UNDER THE ARTICLE DEALING WITH SMUGGLING MENTIONED ABOVE. A SEPARATE ARTICLE DEALS WITH CONSPIRACY TO COMMIT NARCOTICS OFFENSES, AND IS PUNISHABLE BY FIVE TO 25 YEARS IN JAIL AND A FINE OF 20,000 TO 200,000 PESOS.
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3A. THE CULTIVATION OF CANNABIS AND THE OPIUM POPPY ARE FORBIDDEN (PENALTY: FIVE TO 15 YEARS AND 20,000 TO 50,000 PESOS FINE). THERE ARE SPECIAL PROVISIONS FOR COCA CULTIVATION, SINCE COCA IS AN IMPORTANT INCOME CROP FOR LARGE SECTORS OF THE POPULATION WHICH HAS VARIOUS LEGAL USES. THEREFORE, CULTIVATION AND MARKETING OF COCA IS NOT FORBIDDEN, BUT IS UNDER THE SUPERVISION OF THE DIRECCION NACIONAL DE CONTROL DE SUSTANCIAS PELIGROSAS (DNCSP), THE UMBRELLA ORGANIZATION CHARGED WITH ENFORCING THE NARCOTICS LAW. THE MAIN THRUST OF THE PROGRAM FOR CONTROL OF COCA CULTIVATION IS CROP REGISTRATION AND ELIMINATION OF ILLEGAL (I.E. UNREGISTERED) CROPS, ACCOMPANIED BY PROGRAMS FOR RURAL DEVELOPMENT AND PROMOTION OF ALTERNATIVE CASH CROPS IN COCA PRODUCING AREAS. UNREGISTERED CROPS ARE SUBJECT TO DESTRUCTION BY THE AUTHORITIES FOR THE FIRST OFFENSE, AND SEIZURE OF THE LAND FOR SUBSEQUENT OFFENSES.

3B. MARKETING OF COCA PRODUCTS IS ALSO UNDER THE CONTROL AND SUPERVISION OF THE DNCSP.

3C. YES. MANUFACTURE OF ANY NARCTOIC SUBSTANCE IS
PUNISHABLE BY 20 TO 25 YEARS IN PRISON AND A
FINE OF 200,000 PESOS (\$10,000).

4A. THE ARTICLE RELATING TO CONSPIRACY (SEE 2D ABOVE)
INCLUDES THE OFFENSE OF CONSPIRACY TO ENGAGE IN
"FINANCIAL OPERATIONS" CONNECTED WITH OTHER
NARCTICS CRIMES: PENALTY: FIVE TO 25 YEARS
AND 20,000 TO 200,000 PESOS (\$1,000 TO \$10,000)
FINE.

4B. THERE ARE NO EFFECTIVE CONTROLS.

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5A. YES. ACCORDING TO THE CONSTITUTION, AN ARRESTED
PERSON MUST BE REMANDED TO JUSTICE WITHIN 24 HOURS
OR RELEASED. IN PRACTICE, THE PERIOD OF INVESTIGATIVE
DETENTION MAY LAST SEVERAL WEEKS. THE CONSUL USUALLY
RECEIVES WORD (I.E. FROM FRIENDS, PRESS, DEA, ETC.,
BUT RARELY DIRECTLY FROM POLICE) WITHIN 48 HOURS, AND IS
GENERALLY ALLOWED RESTRICTED ACCESS WITHIN 72 HOURS OF
ARREST, DURING THE PERIOD OF INVESTIGATIVE DETENTION.

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5B. THE FIRST AUDIENCE IN THE TRIAL PROCESS USUALLY TAKES
PLACE WITHIN FOUR TO EIGHT WEEKS OF ARREST. OF THIS
TIME, USUALLY TWO TO FOUR WEEKS ARE SPEND IN THE

INVESTIGATIVE PROCESS, THE REST IN PRE-TRIAL LEGAL PROCESSES.

5C. THE TRIAL USUALLY TAKES FROM 9 TO 24 MONTHS, SOMETIMES LONGER. SEVEN MONTHS IS ABOUT THE MINIMUM FOR THE LOWER COURT DECISION, ALTHOUGH SOME CASES CAN TAKE MUCH LONGER. THE AUTOMATIC REVIEW OF THE DISTRICT SUPERIOR COURT USUALLY TAKES TWO TO FOUR MONTHS. APPEAL TO THE SUPREME COURT (WHICH IS OPTIONAL) CAN TAKE ANOTHER TWO TO FOUR MONTHS.

5D. YES. HOWEVER, MOST DEFENDANTS HIRE ATTORNEYS. AVERAGE TOTAL FEE IS ABOUT \$2,000.00.

5E. A CONVICT CAN REQUEST PAROLE (CONDITIONAL LIBERTY) AFTER SERVING TWO-THIRDS OF HIS SENTENCE WITH GOOD BEHAVIOR. THERE IS NO BAIL OR BOND, HOWEVER, FOR ACCUSED NARCOTICS OFFENDERS.

5F. IT HAS BECOME MORE COMMON FOR THE NARCOTICS POLICE TO EXPEL FOREIGNERS WHO ARE POSSESSORS
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OF SMALL AMOUNTS OF NARCOTICS (ESPECIALLY WHEN ONLY MARIJUANA) IF THERE IS NO EVIDENCE OF INVOLVEMENT IN TRAFFICKING, OR IF THE EVIDENCE IS TOO WEAK TO STAND UP IN COURT. HOWEVER, EACH CASE IS DECIDED ON ITS OWN MERITS, AND THERE IS NO KNOWN RULE OR GUIDELINE WHICH IS FOLLOWED (SEE 1B ABOVE).

6. THE NARCOTICS LAW PRESENTLY IN FORCE IS THE NATIONAL LAW FOR THE CONTROL OF DANGEROUS SUBSTANCES OF DECEMBER 17, 1976. IT IS EXPECTED TO AMENDED SHORTLY AT THE RECOMMENDATIONS OF A SPECIAL COMMISSION APPOINTED BY THE GOB IN NOVEMBER, 1977. EMBASSY WILL REPORT THESE AMENDMENTS WHEN THEY ARE KNOWN.
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